# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/734,556 | 12/12/2003 | Marcy R. Howerter | RSW9-2003-0249US1 (7161-1 | 2446 |

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| 46320          7590          02/07/2008 | EXAMINER | |
| CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP | RUTTEN, JAMES D | |
| STEVEN M. GREENBERG | | |
| 950 PENINSULA CORPORATE CIRCLE | ART UNIT | PAPER NUMBER |
| SUITE 3020 | 2192 | |
| BOCA RATON, FL 33487 | | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/07/2008 | PAPER |

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# BEFORE THE BOARD OF PATENT APPEALS
# AND INTERFERENCES

Application Number: 10/734,556
Filing Date: December 12, 2003
Appellant(s): HOWERTER ET AL.

**MAILED**

FEB 0 7 2008

**Technology Center 2100**

Scott D. Paul, Reg. No. 42,984
For Appellant

## EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/13/07 appealing from the Office action mailed

6/12/07.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

## (8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

| | | |
|---|---|---|
| 6,760,733 | KOMINE et al. | 7-2004 |
| 6,072,492 | SCHAGEN et al. | 6-2000 |
| 6,025,722 | TAGHADOSS | 4-2000 |
| 6,918,088 | CLARK et al. | 7-2005 |
| 5,680,619 | GUDMUNDSON et al. | 10-1997 |
| 5,974,253 | NAHABOO et al. | 10-1999 |

Adams et al., "A New Approach to Flexible, Adaptable Development Tools", Object

Technologies International, Inc. (Dec. 1, 2002), <http://www.reed-

electronics.com/ecnmag/index.asp?layout=articleID=CA261749>

## (9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 11, 14, 15, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent 6,760,733 to Komine et al. (hereinafter "Komine").

In regard to claim 1, Komine discloses:

*A method for collaboratively configuring resource objects for deployment in*

*instances of an integrated solutions console* (see column 7 lines 4-5, e.g. "process"; also

see column 4 lines 49-53, e.g. "client applications" in view of Fig. 1 elements 11 and 100

), *the method comprising the steps of:*

*programming a new resource management object to manage a corresponding*

*resource in an enterprise domain;*  See column 7 lines 5-7, e.g. "'RM7' is to be newly

created." Also see column 4 lines 53-56 ("the RMs 51 to 56 administrate their respective

managed objects (MOs)").

*consulting a registry of existing resource management objects to determine a*

*proper placement for said new resource management object in a maximal hierarchy of*

*said existing resource management objects;* See column 7 lines 18-19, e.g. "check the

current RM entries." Also see column 5 lines 62-67, e.g. "[hierarchical associations]

among RMs". Also see column 7 lines 34-35: "a new record with a relative distinguished

name "RM7" is added to the RMIB." Also see Fig. 1, element 131, also column 5 lines

62-67, e.g. "tree structure", which is interpreted as the maximal hierarchy.

*and,*

*configuring said new resource management object for insertion into said maximal*

*hierarchy based upon said determined proper placement.*  See column 7 lines 32-35, e.g.

"new record...is added to the RMIB." Also see column 6 lines 4-18 which describes data

items in the RMIB entries, i.e. objects. Such data includes at least "Name of Parent RM."

A proper placement of an object includes a determination of a parent RM. The

configuration of an object includes providing RMIB data which includes data resulting

from a proper placement.

In regard to claim 2, the above rejection of claim 1 is incorporated. Komine further discloses: *editing a deployment descriptor for said new resource management object to indicate a proper placement of said new resource management object in a navigation hierarchy of an instance of an integrated solutions console; and, modifying said registry to indicate said proper placement.* See Fig. 4. Also column 5 lines 23-28 and column 6 lines 5-7. Komine is interpreted as including a registry (e.g. RMIB) containing deployment descriptors (e.g. Fig. 4, "Full Name of RM"). Here, Komine describes modifying tree structure data as contained in the RMIB to reflect changes in the containment relationships of resource managers. A change in these relationships requires editing a deployment descriptor which requires modifying the registry.

In regard to claim 3, the above rejection of claim 2 is incorporated. Komine further discloses: *modifying said registry to assign a unique identifier to said new resource management object.* See column 5 lines 23-28 and column 6 lines 13-14.

In regard to claim 11, Komine discloses:

*A method for managing access to resource management objects disposed in a hierarchical subset of resource management objects through an instance of an integrated solutions console* (see column 7 lines 4-5, e.g. "process"), *the method comprising the steps of:*

*identifying a new resource management object to be added to said hierarchical subset;* See column 7 lines 9-10, e.g. "RM creation indication."

*retrieving a real-time representation of a maximal expansion of said hierarchical subset from a registry;* See column 4 line 66 – column 5 line 2, e.g. "access to the database 40 to obtain tree structure data."

*selecting a position within said maximal expansion of said hierarchical subset through said real-time representation;* See column 7 lines 19-26 and 34-35, e.g. "results of such tests." These passages describe testing for a parent RM and based upon such tests, adding a new record, i.e. "selecting" and "adding."

*adding said new resource management object to said maximal expansion of said hierarchical subset at said selected position;* See column 7 lines 26-28, e.g. "update the tree structure data."

*and,*

*modifying said real-time representation in said registry to reflect said new resource management object.* See column 7 lines 29-31, e.g. "requests the database 40 to update the RMIB data."

In regard to claim 14, the above rejection of claim 11 is incorporated. Komine further discloses: *assigning a unique identifier to said new resource management object; and, storing said unique identifier in said registry in association with said new resource management object.* See column 5 lines 23-28 and column 6 lines 13-14.

In regard to claim 15, Komine discloses:

*A machine readable storage having stored thereon a computer program* See

column 17 lines 46-49, e.g. "computer-readable medium." All further limitations have

been addressed in the above rejection of claim 11.


In regard to claim 18, the above rejection of claim 15 is incorporated. All further

limitations have been addressed in the above rejection of claim 14.


Claims 4, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komine in

view of U.S. Patent No. 6,072,492 to Schagen et al. (hereinafter "Schagen").


In regard to claim 4, Komine discloses:

*A system for integrating and arranging resource management objects in an*

*integrated solutions console* (See Fig. 1) *comprising:*

*an instance of an integrated solutions console;* See column 4 lines 49-53, e.g.

"client applications."

*a registry configured to store a real-time maximal hierarchical representation of*

*a hierarchy of resource management objects registered for accessibility through said*

*instance of said integrated solutions console;* See column 4 line 67 – column 5 line 2,

e.g. "access the **database** 40 to obtain **tree structure data** [emphasis added]." Also see

column 5 lines 19-22, e.g. "permits the client applications 11 and 12 to send operation

request messages, without managing for themselves the containment tree structure."

Further, see column 4 lines 53-56:

> While not shown in FIG. 1, the RMs 51 to 56 **administrate** their respective managed
> objects (MOs), which **provide** the **client applications** 11 and 12 with various processing
> services on request. [emphasis added]

In this case, a hierarchical representation is "tied" to a specific instance of client

application 11.

*and*

*an interface to said registry programmed to render said hierarchical*

*representation and to register a new resource management object for accessibility*

*through said instance of said integrated solutions console from a position in a subset of*

*said hierarchy selected through said interface.* See Fig. 24 (column 12 lines 27-30) and

Fig. 28 (column 13 lines 4-6) which generally describes the depiction of a hierarchical

representation, and using a subset of the hierarchy. Komine does not expressly disclose

the use of an "interface," or selecting using the interface. However, Schagen teaches that

a subset of a hierarchy can be selected using an interface. See Schagen column 6 lines

25-28, e.g. "selection by a user causes...level 104 to be presented to the user." It would

have been obvious to one of ordinary skill in the art at the time the invention was made to

use Schagen's teaching of an interface for selection with Komine's hierarchical

representation in order to provide improved accessibility to information items (see

Schagen column 1 lines 65-67).


In regard to claim 7, the above rejection of claim 4 is incorporated. Komine

further discloses: *wherein said maximal hierarchy comprises a plurality of containers*

*arranged in a tree structure of parent nodes and children nodes in which said resource*

*management objects can be disposed according to interrelationships between said*

*resource management objects.* See column 5 lines 64-67.

In regard to claim 8, the above rejection of claim 4 is incorporated. Komine

further discloses: *wherein each of said resource management objects comprises a unique*

*identifier.* See column 6 lines 13-14.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komine and Schagen as

applied to claim 4 above, and further in view of prior art of record "A New Approach to Flexible,

Adaptable Development Tools" by Adams (hereinafter "Adams").

In regard to claim 5, the above rejection of claim 4 is incorporated. Komine and

Schagen do not expressly disclose: *wherein said interface is disposed within an*

*integrated development environment.* However, Adams teaches the use of integrated

development environments. See bottom of page 1, e.g. "IDE." It would have been

obvious to one of ordinary skill in the art at the time the invention was made to use

Adams' IDE with Komine's management objects in order to utilize plug-in technology

with a single interface (see Adams, bottom of page 1).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komine and Schagen as

applied to claim 4 above, and further in view of U.S. Patent No. 6,025,722 to Taghadoss

(hereinafter "Taghadoss").

In regard to claim 6, the above rejection of claim 4 is incorporated. Komine and Schagen do not expressly disclose: *wherein selected ones of said resource management objects comprise performance monitors.* However, Taghadoss teaches performance monitoring. See column 1 lines 62-63. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Taghadoss' teaching of performance monitoring with Komine's management objects in order to meet the goals of network management systems (see Taghadoss column1 lines 62-63).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komine and Schagen as applied to claim 4 above, and further in view of U.S. Patent No. 6,918,088 to Clark et al. (hereinafter "Clark").

In regard to claim 9, the above rejection of claim 4 is incorporated. Komine does not expressly disclose: *wherein said instance of said integrated solutions console comprises a portal interface.* However, Clark teaches the use of a portal interface. See column 1 lines 36-39. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Clark's portal with Komine's management objects in order to control access (see Clark column 1 lines 36-39).

Claims 10, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komine

and Schagen as applied to claim 4 above, and further in view of U.S. Patent 5,680,619 to

Gudmundson et al. (hereinafter "Gudmundson").


In regard to claim 10, the above rejection of claim 4 is incorporated. Komine

further discloses: *wherein said registry comprises a plurality of entries, each entry*

*specifying a reference to a parent node and one of a container and a resource*

*management object.* Komine and Schagen do not expressly disclose a container.

However, Gudmundson teaches the use of object containers. See column 8 lines 23-26.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to use Gudmundson's object container with Komine's entries in order to

facilitate the development of applications (see Gudmundson column 8 lines 30-33).


In regard to claim 12, the above rejection of claim 11 is incorporated. Komine

does not expressly disclose: *selecting a container within said maximal expansion of said*

*hierarchical subset which relates to a function of said new resource management object.*

However, Gudmundson teaches selection of a function container. See column 9 lines 14-

16, e.g. "Behaviors." It would have been obvious to one of ordinary skill in the art at the

time the invention was made to use Gudmundson's function container with Komine's

objects in order to provide complex objects (see column 9 lines 9-13).

In regard to claim 16, the above rejection of claim 15 is incorporated. All further limitations have been addressed in the above rejection of claim 12.

Claims 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komine as applied to claim 11 above, and further in view of U.S. Patent 5,974,253 to Nahaboo et al. (hereinafter "Nahaboo").

In regard to claim 13, the above rejection of claim 11 is incorporated. Komine does not expressly disclose: *selecting a container within said maximal expansion of said hierarchical subset which relates to a resource type operated upon by said new resource management object.* However, Nahaboo teaches the selection of a container relating to a type of a new object. See column 2 lines 43-49. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Nahaboo's type container with Komine's objects in order to easily install object types (see Nahaboo column 2 lines 48-49).

In regard to claim 17, the above rejection of claim 15 is incorporated. All further limitations have been addressed in the above rejection of claim 13.

**(10) Response to Argument**

## The rejection of claims 1-3, 11, 14-15, and 18 under 35 U.S.C. § 102 for anticipation based upon Komine

Claim 1

On pages 5-7 of the 11/13/07 Brief, Appellants essentially argue that the limitation of an integrated solutions console is not disclosed by Komine.  As pointed out in the 12/29/06 Non-final Rejection (see item 5 on page 5) and also in the 6/12/07 Final Rejection (see item 3 on page 3 and item 15 on page 9), this limitation is disclosed by Komine at column 4 lines 49-53 (e.g. "client applications") in view of Fig. 1 elements 11 and 100.

Appellant further argues (see top of page 7) that previous rejections have not provided an explanation regarding how the reference is both reasonable and consistent with Appellant's specification.  It should be noted that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.  See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).  In this case, Komine's client applications provide a view of the enterprise at least in reference to performance of resource managers and object managers (further see Komine column 4 lines 63-66: "The message processor 110 accepts operation request messages that the client applications 11 and 12 issue to transact with the RMs 51 to 56, and it passes them to the object manager 130.").  As such, it reasonably and consistently corresponds with the discussion of an integrated solutions console provided in the specification.  Therefore, Appellants' argument is not persuasive.

On pages 7-9 of the 11/13/07 Brief, Appellants essentially argue that the reasonable broad

interpretation of Komine's "enterprise" as explained in the 6/12/07 Final Rejection (see item 4

on page 3) is not consistent with Appellants' originally filed specification. However, Appellant

does not provide any portion of the specification which describes such an enterprise as being

contrary to Komine. Without direct support for the term in the specification, Appellants turn to

the internet based encyclopedia Wikipedia for support for the term enterprise software: "software

which provides business logic support functionality for an organization, typically in commercial

organizations, which aims to improve the organization's productivity and efficiency." Komine

provides such enterprise software at least in terms of object management systems, tree managers,

object managers, message processors, etc. See at least Fig. 1 and column 2 lines 30-40. Further,

Appellants have not provided any arguments that clearly point out any alleged shortcomings of

the reference. Therefore, the argument is not persuasive.

At the top of page 9 of the 11/13/07 Brief, Appellants argue that the rejection fails to show

where the Komine reference "specifically associates a 'new resource management object' with a

'corresponding resource.'" The previous rejections have cited Komine column 7 lines 5-7, e.g.

"'RM7' is to be newly created." Here, RM7 corresponds with a "resource manager" which are at

least described in column 4 lines 53-56 ("the RMs 51 to 56 administrate their respective

managed objects (MOs)") as managing respective or corresponding resources. Thus, Appellants'

argument is not persuasive.


On pages 9-10 of the 11/13/07 Brief, Appellants essentially argue that the Komine reference

does not disclose "placement" for a new resource management object. However, Komine

discloses placement at least in cited column 7 lines 34-35: "a new record with a relative

distinguished name "RM7" is added to the RMIB." "Adding" is interpreted as providing

placement. Thus, Appellants' argument in not persuasive.

Appellant further argues that the "maximal hierarchy" has not been addressed. It is noted

that no definition for a "maximal hierarchy" appears in the originally filed specification. In

particular, the definition provided on page 10 lines 19-20 of the Brief appears nowhere in the

specification. Therefore, reasonable broad interpretation is necessary and has been interpreted as

Komine's tree structure (see Fig. 1, element 131, also column 5 lines 62-67, e.g. "tree structure").

As such, the argument is not persuasive.


On pages 10-11 of the 11/13/07 Brief, Appellants essentially argue that the Komine reference

does not disclose configuration of objects based upon a proper placement. This argument was

addressed in the 6/12/07 Final Rejection (see item 6 on pages 3-4) which cited Komine column 6

lines 4-18 which describes data items in the RMIB entries, i.e. objects. Such data includes at

least "Name of Parent RM." A proper placement of an object includes a determination of a

parent RM. The configuration of an object includes providing RMIB data which includes data

resulting from a proper placement. Therefore, Appellants' arguments are not persuasive.


Claim 2

On pages 11-12 of the 11/13/07 Brief, Appellants essentially argue that the Komine reference

does not disclose "editing a deployment descriptor," and "modifying said registry." As cited

(e.g. Fig. 4, column 5 lines 23-28 and column 6 lines 5-7), Komine is interpreted as including a

registry (e.g. RMIB) containing deployment descriptors (e.g. Fig. 4, "Full Name of RM"). Here,

Komine describes modifying tree structure data as contained in the RMIB to reflect changes in

the containment relationships of resource managers. A change in these relationships requires

editing a deployment descriptor which requires modifying the registry. Thus, Appellants'

argument is not persuasive.

Claims 11 and 15

On pages 13-14 of the 11/13/07 Brief, Appellants essentially argue that the Komine reference

does not disclose that "a position within the maximal hierarchy is selected or that the new

resource management object is added to the hierarchy based upon the selected position." This

argument is not persuasive. Komine teaches selection of a position and addition based upon the

selected position at least in column 7 lines 19-26 and 34-35. These passages describe testing for

a parent RM and based upon such tests, adding a new record, i.e. "selecting" and "adding."

Thus, Appellants' argument is not persuasive.

**The rejection of claims 4 and 7-8 under 35 U.S.C. § 103 for obviousness based upon
Komine in view of Schagen**

Claim 4

On pages 14-16 of the 11/13/07 Brief, Appellants essentially argue that Komine provides

multiple instances, not a single instance as required by claim 4. In particular, Appellants argue

that claim 4 requires that the hierarchical representation is tied to a specific instance of the

integrated solutions console. This argument is not persuasive. The plain language of the claim

calls for "accessibility through said instance of said integrated solutions console." Komine

discloses this at least in column 4 lines 53-56:

> While not shown in FIG. 1, the RMs 51 to 56 **administrate** their respective managed objects (MOs), which **provide** the **client applications** 11 and 12 with various processing services on request. [emphasis added]

In this case, a hierarchical representation is "tied" to a specific instance of client application 11.

Therefore, the argument is not persuasive.

### The rejection of claim 5 under 35 U.S.C. § 103 for obviousness based upon Komine in view of Schagen and Adams

On pages 16-17 of the 11/13/07 Brief, Appellants state that claim 5 stands or falls together

with independent claim 4, and that the arguments presented in view of claim 4 apply equally to

claim 5. As such, these arguments are not persuasive for the reasons presented above.

### The rejection of claim 6 under 35 U.S.C. § 103 for obviousness based upon Komine in view of Schagen and Taghadoss

On page 17 of the 11/13/07 Brief, Appellants state that claim 6 stands or falls together with

independent claim 4, and that the arguments presented in view of claim 4 apply equally to claim

6. As such, these arguments are not persuasive for the reasons presented above.

### The rejection of claim 9 under 35 U.S.C. § 103 for obviousness based upon Komine in view of Schagen and Clark

On pages 17-18 of the 11/13/07 Brief, Appellants state that claim 9 stands or falls together with independent claim 4, and that the arguments presented in view of claim 4 apply equally to claim 9. As such, these arguments are not persuasive for the reasons presented above.

## The rejection of claims 10, 12, and 16 under 35 U.S.C. § 103 for obviousness based upon Komine in view of Schagen and Gudmundson

On page 18 of the 11/13/07 Brief, Appellants state that claim 10 stands or falls together with independent claim 11, and that claims 12 and 16 stand or fall together with independent claim 4, and that the arguments presented in view of claims 4 and 11 apply equally to claims 10, 12, and 16, respectively. As such, these arguments are not persuasive for the reasons presented above.

## The rejection of claims 14 and 17 under 35 U.S.C. § 103 for obviousness based upon Komine in view of Nahaboo

On page 19 of the 11/13/07 Brief, Appellants state that claims 13 and 17 stand or fall together with independent claim 11, and that the arguments presented in view of claim 11 apply equally to claims 13 and 17, respectively. As such, these arguments are not persuasive for the reasons presented above.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/J. Derek Rutten/
Patent Examiner, AU 2192

Conferees:

Tuan Dam, SPE AU 2192

TUAN DAM
SUPERVISORY PATENT EXAMINER

Wei Zhen, SPE AU 2191

WEI ZHEN
SUPERVISORY PATENT EXAMINER